IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Second Appeal No. 335 of 2004

Smt. Shantabai Wd/o Akhaduji Mohankar & ors.
vs
Smt. Tulsabai Wd/o Narayan Nagpure & ors.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. Court's or Judge's Orders.

CORAM : Smt. Vasanti A. Naik, J.
Dated : July 06, 2007.

Heard Shri Vyawahare, learned counsel for the appellants and Shri Dhabe, learned counsel for the respondents.

The appellants are the original defendants. A suit was filed by the respondents/plaintiffs for possession of certain open space, which was situated between the houses belonging to the appellants and the respondents. It was the plaintiffs case that the open space belonged to the plaintiffs and the defendants case that it belonged to the defendants. The Trial and Appellate Courts on proper appreciation of the material evidence on record held that the defendants had encroached upon 19.500 sq. meters of land belonging to the plaintiffs. The Courts held that the plaintiffs are the owners of the open space and defendants had encroached upon the open space belonging to the plaintiffs. A decree of possession was consequently passed by the Trial Court.

The finding recorded by both the Courts are based on proper appreciation of material evidence on record and do not give rise to any substantial question of law. The second appeal is, therefore, dismissed with no orders as to costs.

JUDGE

JSA.